

ORDER OF THE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
MICHAEL DAMAR SHIRLEY,
Defendant.

Case No. CR-09-00135-RMW

ORDER DENYING MOTIONS

[Docket Nos. 26, 27, 28, 30, 31, 32, 33 and 34)

On November 11, 2011 defendant Shirley filed a *pro se* motion pursuant to 18 U.S.C. § 3582(c)(2) to reduce his sentence based upon Amendment 750 to the United States Sentencing Guidelines which reduced the offense level for convictions involving crack cocaine. After extensions of time to respond, on August 24, 2012, the government filed its response contending that the motion should be denied. The court has considered the papers filed and the respective positions of the parties. The defendant's motion is hereby denied.

1 Defendant has also filed several papers since the filing of his motion (Docket numbers 26,
2 27, 28, 30, 31, 32, 33, and 34). To the extent those papers are intended as motions seeking some sort
3 of relief, they are denied.

4 The motion pursuant to 18 U.S.C. § 3582(c)(2) lacks merit because defendant was sentenced
5 as a career offender making him ineligible for a reduction pursuant to Amendment 750 and he
6 waived his right to make a motion pursuant to 18 U.S.C. § 3582(c)(2) in his plea agreement. Even if
7 defendant's motion had some merit, he could obtain little, if any, relief because his sentence was
8 below the Guideline range for a career criminal and only one month above the mandatory minimum
9 for his offense.

10 DATED: ~~FOR JUDGE~~

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12 RONALD M. WHYTE
13 United States District Judge
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1 Copy of Ordered Mailed on 12/19/12 to:

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